**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU**

**MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928**

**Crl.Rev.Pet.No. 366 of 1999**
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**CRA.268/1996 of ADDL.SESSIONS COURT, THODUPUZHA**
**CC.146/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, ADIMALI**
**.....**

**REVN. PETITIONER:**
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**A.C.PAULOSE, S/O. SCARIA,**
**AMBALATHINKAL HOUSE,**
**THATTEKKANNY P.O. IDUKKI DIST.**

**BY ADV. SRI.S.K.MURALEEDHARA KAIMAL**

**RESPONDENTS:**
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**1. THE STATE OF KERALA, REP. BY THE PUBLIC PROSECUTOR**
**HIGH COURT OF KERALA, ERNAKULAM.**

**2. THE DEPUTY RANGER,**
**FOREST STATION, PANAMKUTTY**

**BY PUBLIC PROSECUTORMR. KAMMAPPU**

**THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**ORDER ON CRL.M.P.NO.1552/1999 IN CRL.R.P.NO. 366 OF 1999**

**DISMISSED.**

**12-3-2007 SD/-K.R.UDAYABHANU,JUDGE**

**TRUE COPY**

**P.S.TO JUDGE**

**K.R. UDAYABHANU, J.**

**CRL.R.P.NO.366 OF 1999-A**

**DATED THIS THE 12TH DAY OF MARCH 2007**

**ORDER**

The revision petitioner is the first accused in C.C.No.146/2003 with respect to the offences under Section 27(1)(g) and 27(2) c of the Kerala Forest Act. The 2nd accused absconded. The revision petitioner stands convicted and sentenced to undergo simple imprisonment for two years and to pay a fine of Rs.3,000/-. The same was confirmed by the Sessions Judge.

2. Evidence adduced in the matter consisted of the testimony of PWs.1 to 3 of whom Pws.1 and 2 are the Forest Guards who witnessed the accused attempting to remove the felled teak log. The prosecution case is that the accused on 5-12-1992 and four days prior to that date trespassing into the reserved forest and cut down a teak tree and was found attempting to remove the same. The loss is assessed as Rs.750/-. It is the contention of the

revision petitioner that there is no independent evidence and that as per the mahazar prepared, i.e.Ext.P1 the weapons used for rolling the wooden logs were not recovered .

3. Considering the evidence adduced in the matter, I find that there is nothing to interfere in the concurrent findings of the courts below as the evidence of PWs.1 and 2 is consistent. There is nothing wrong in relying on the testimony of official witnesses, especially when the matter involved is a forest offence and in the place of occurrence of independent witnesses may not be available.

4. All the same, it is pointed out by counsel for the revision petitioner that at the time the statute provided only for imprisonment upto three years and a fine that may extend upto Rs.1,000/-. In the instant case, the fine amount imposed is Rs.3,000/-. It has also to be noted that the incident has taken place in 1992, and almost one and a

half decades are over. So far the revision petitioner was pursuing the criminal proceedings. In the circumstances, the conviction is confirmed and sentence is modified to imprisonment till the rising of the court and to pay a fine of Rs.1,000/- and in default to undergo simple imprisonment for one month. The revision petitioner shall appear before the Judicial Magistrate of First Class, Admilay on 22-4-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

**K.R.UDAYABHANU, JUDGE**

**ks.**

K.R.UDAYABHANU, J

CRL.R.P.NO.366 OF 1999-A

ORDER

12-3-2007